

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

LUV N' CARE, LTD. and
ADMAR INTERNATIONAL, Inc.

Plaintiffs,

vs.

WALGREEN CO. and
KMART CORP.

Defendants.

CIVIL ACTION NO.

08-CIV 4457 (DC/HP)

**DECLARATION OF KARIN KENNEDY IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

Christopher and Weisberg, P.A., Attorneys for Walgreen Co. submit this declaration in support of Motion for Summary Judgment. Declarant Karin Kennedy, Esq., states:

1. My name is Karin Kennedy, and I am an attorney with the law firm Christopher & Weisberg, P.A., with offices at 200 East Las Olas Boulevard, Suite 2040, Fort Lauderdale, Florida, 33301 and 1455 Pennsylvania Avenue, N.W., Suite 100, Washington, D.C. 20004.
2. I am a member in good standing of the bar of the state of Florida.
3. I am over the age of 18 and able to testify to the matter declared here.
4. My firm represents defendant Walgreen Co.
5. Exhibits C1 – C42 are true and correct copies of web pages I downloaded on May 27, 2009, May 28, 2009 and May 29, 2009.
6. On May 27, 2009, I visited the domain www.playtexbaby.com on the internet. At that domain I found a website at <http://www.playtexbaby.com/Products/CupsandMealtime>

/Sipster and InsulatorCups.aspx. Ex. C1 is a true and correct copy of the web page I found at that website at that domain. Ex. C1 shows The First Sipster Spill-Proof Cup, made by Playtex. Ex. C1A is a true and correct enlargement of the picture located at the top right side of the web page of Ex. C1.

7. On May 27, 2009, I visited the domain www.playtexbaby.com on the internet. At that domain I found a website at http://www.playtexbaby.com/Products/ProductDetails.aspx?id=1032. Ex. C2 is a true and correct copy of the web page I found at that website at that domain. Ex. C2 shows The Sipster Spill-Proof Cup, made by Playtex. Ex. C2A is a true and correct enlargement of the picture located at the right top corner of the web page of Ex. C2.
8. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Munchkin-Mighty-Glass-Bottles-3-Pack/dp/B001O9KIX0/ref=sr_1_8?ie=UTF8&s=babyproducts&qid=1241554633&sr=8-8. Ex. C3 is a true and correct copy of the web page I found at that website at that domain. Ex. C3 shows The Munchkin Mighty Grip Glass Bottle made by Munchkin. Ex. C3A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C3.
9. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Munchkin-Mighty-Grip Sports-Bottle/dp/B001QXCF1C. Ex. C4 is a true and correct copy of the web page I found at that website at that domain. Ex. C4 shows the Munchkin Mighty Grip Sports Bottle, made by Munchkin. Ex. C4A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C4.

10. On May 27, 2009, I visited the domain www.munchkin.com on the internet. At that domain I found a website at <http://www.munchkin.com/products/detail.html?section=prodCategories&ID=10021&pID=1096>. Ex C5 is a true and correct copy of the web page I found at that website at that domain. Ex. C5 shows the Munchkin Mighty Grip Spill Proof Cup, made by Munchkin. Ex. C5A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C5.
11. On May 27, 2009, I visited the domain www.munchkin.com on the internet. At that domain I found a website at <http://www.munchkin.com/products/detail.html?section=prodCategories&ID=10021&pID=1102>. Ex C6 is a true and correct copy of the web page I found at that website at that domain. Ex C6 shows the Munchkin Mighty Grip 8 oz. Trainer Cup, made by Munchkin. Ex. C6A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C6.
12. On May 27, 2009, I visited the domain www.evenflo.com on the internet. At that domain I found a website at <http://www.evenflo.com/product.aspx?id=134>. Ex C7 is a true and correct copy of the web page I found at that website at that domain. Ex C7 shows the Evenflo FunSip Spill Proof Cup, made by Evenflo. Ex. C7A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C7.
13. On May 27, 2009, I visited the domain dotreem.com on the internet. At that domain I found a website at http://dotreem.com/index.php?main_page=product_info&cPath=1_30_31&products_id=166. Ex. C8 is a true and correct copy of the web page I found at that website at that domain. Ex. C8 shows the AVENT Magic Cup, made by AVENT.

Ex. C8A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C8.

14. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at <http://www.amazon.com/Thinkbaby-9oz-Trainer-Cup-Handles/dp/B0012KF5HA>. Ex. C9 is a true and correct copy of the web page I found at that website at that domain. Ex. C9 shows the ThinkBaby Trainer Cup made by ThinkBaby. Ex. C9A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C9.
15. On May 28, 2009, I visited the domain www.organize.com on the internet. At that domain I found a website at <http://www.organize.com/pinktoddlercup.html?gclid=CJnlgPCAtZoCFQWfnAodUIL4cg>. Ex. C10 is a true and correct copy of the web page I found at that website at that domain. Ex. C10 shows the Grip-n-Gulp Toddler Cup, made by Nalgene. Ex. C10A is a true and correct enlargement of the picture located at the left middle of the web page of Ex. C10.
16. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Philips-Avent-Newborn-Bottle-Starter/dp/B001FSHJZU/ref=sr_1_1?ie=UTF8&s=babyproducts&qid=1243449326&sr=1-1. Ex. C11 is a true and correct copy of the web page I found at that website at that domain. Ex. C11 shows the Philips AVENT Newborn Bottle Starter Set, made by Philips AVENT. Ex. C11A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C11.

17. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Momo-Baby-Feeding-Bottles-3-Pack/dp/B000TUO1CY/ref=sr_1_1?ie=UTF8&s=babyproducts&qid=1242663411&sr=1-1. Ex. C12 is a true and correct copy of the web page I found at that website at that domain. Ex. C12 shows the Momo Baby 5oz. Glass Feeding Bottle, made by Momo. Ex. C12A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C12.
18. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at <http://www.amazon.com/Tri-Flow-5oz-Wide-Mouth-Bottle/dp/B00018XCQK>. Ex. C13 is a true and correct copy of the web page I found at that website at that domain. Ex. C13 shows the Tri-Flow Wide Mouth 5 oz. Munchkin Baby Bottle, made by Munchkin. Ex. C13A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C13.
19. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at <http://www.amazon.com/Coddletime-Friendly-Borosilicate-Silicone-Nipple-PBA/dp/B001QKJG2G>. Ex. C14 is a true and correct copy of the web page I found at that website at that domain. Ex. C14 shows the Coddletime Eco Friendly Single 9 oz. Glass Baby Bottle, made by Coddletime. Ex. C14A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C14.
20. On May 28, 2009, I visited the domain www.nurturepure.com on the internet. At that domain I found a website at http://www.nurturepure.com/NurturePure-Single-4-oz-Glass-Baby-Bottle-_p_7.html. Ex. C15 is a true and correct copy of the web page I found at that website at that domain. Ex. C15 shows the NurturePure Single 4 oz. Glass

Baby Bottle, made by NurturePure. Ex. C15A is a true and correct enlargement of the picture located at the middle right of the web page of Ex. C15.

21. On May 27, 2009, I visited the domain www.nurturepure.com on the internet. At that domain I found a website at http://www.nurturepure.com/GrowPure-Multi-Stage-Feeder-amp-Sippy-Cup_p_15.html#. Ex. C16 is a true and correct copy of the web page I found at that website at that domain. Ex. C16 shows the GrowPure Multi-Stage Feeder & Sippy Cup, made by NurturePure. Ex. C16A is a true and correct enlargement of the picture located at the middle right of the web page of Ex. C16.
22. On May 27, 2009, I visited the domain www.greenbabybliss.com on the internet. At that domain I found a website at http://www.greenbabybliss.com/Born_Free_5_oz_Wide_Neck_Twin_Pack_p/born1000.htm on the internet. Ex. C17 is a true and correct copy of the web page I found at that website at that domain. Ex. C17 shows the Born Free 5 oz. Wide Neck Twin Pack, made by Born Free. Ex. C17A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C17.
23. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/First-Years-Disney-Insulated-2-Pack/dp/B000BK8QRS/ref=sr_1_5?ie=UTF8&s=babyproducts&qid=1242589112&sr=1-5. Ex. C18 is a true and correct copy of the web page I found at that website at that domain. Ex. C18 shows the First Years Disney Pooh and Insulated Spill Proof Sippy Cup 2-pack, made by The First Years. Ex. C18A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C18.

24. On May 27, 2009, I visited the domain www.walmart.com on the internet. At that domain I found a website at http://www.walmart.com/catalog/product.do?product_id=9870498. Ex. C19 is a true and correct copy of the web page I found at that website at that domain. Ex. C19 shows The First Years Insulated Cup 9 oz. 2 Pack, made by The First Years. Ex. C19A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C19.
25. On May 28, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/First-Years-Deere-Insulated-2-Pack/dp/B001B101MY/ref=pd_bxgy_ba_text_c. Ex. C20 is a true and correct copy of the web page I found at that website at that domain. Ex. C20 shows The First Years John Deere Insulated 9 oz. Sippy Cup, made by The First Years. Ex. C20A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C20.
26. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Spill-Proof-Cup-9-Oz/dp/B001BOLRY2/ref=pd_sim_ba_9. Ex. C21 is a true and correct copy of the web page I found at that website at that domain. Ex. C21 shows the First Years Spill Proof Cup 9 oz., made by The First Years. Ex. C21A is a true and correct enlargement of the picture located at the left top corner of the web page of Ex. C21.
27. On May 27, 2009, I visited the domain www.amazon.com on the internet. At that domain I found a website at http://www.amazon.com/Playtex-Lil-Gripper-Spout-Pack/dp/B001ULCJFM/ref=pd_sim_ba_6. Ex. C22 is a true and correct copy of the web page I found at that website at that domain. Ex. C22 shows the Playtex Lil' Gripper